

Remarks

In the outstanding Official Action, the Examiner:

(1) indicated that the above-identified patent application lacks the necessary reference to the prior application, and a statement reading "This is a divisional of Application No. 10/184,703, filed 06-28-02." should be entered following the title of the invention or as the first sentence of the specification;

(2) rejected claims 30-32 under 35 USC 102(b) as being anticipated by Fenton Jr.;

(3) rejected claims 33 and 34 under 35 USC 103(a) as being unpatentable over Fenton, Jr. in view of Taylor; and

(4) objected to claim 35 as being dependent upon a rejected base claim, and indicated that claim 35 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response to Item 1 above, Applicants have now amended the specification to replace the previous reference to related applications with a new reference. This reference indicates that the above-identified patent application is a divisional of pending prior application Serial No. 10/184,703, filed 06/28/2002 by Mary Sinnott et al. for SYSTEM AND METHOD FOR ATTACHING SOFT

TISSUE TO BONE, which patent application claims benefit of U.S. Provisional Patent Application Serial No. 60/301,596, filed 06/28/2001 by Mary Sinnott et al. for SYSTEM AND METHOD FOR ATTACHING SOFT TISSUE TO BONE. Accordingly, Applicants believe that the specification is allowable.

In response to Item 2 of above, Applicants have now amended independent claim 30 to more clearly distinguish the present invention with respect to the prior art of record.

Claim 30 comprises a method for attaching tissue to bone, the method comprising the step of attaching a cap to the stake between a proximal surface of the tissue and the sharpened end of the proximal portion thereof so as to overlie the cap on the tissue.

Applicants have carefully reviewed Fenton, Jr., and Applicants believe that Fenton, Jr. discloses a method of fixing soft tissue to bone which includes a step of mating a joiner element with an anchor element through a segment of soft tissue to capture the soft tissue segment within the tissue capture region between the joiner element. Applicants further believe that Fenton, Jr. discloses positioning the joiner element through the soft tissue. (See Fig. 4B of Fenton, Jr.) Applicants believe that Fenton, Jr. does not disclose the step of attaching

a cap to a stake between a proximal surface of the tissue and the sharpened end of the proximal portion thereof so as to overlie the cap on the tissue. Accordingly, claim 30 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

Claims 31 and 32, which depend either directly or ultimately from independent claim 30, are believed to be in condition for allowance for at least the above-identified reasons. Accordingly, allowance of claims 31 and 32 is respectfully requested.

In response to Item 3 above, Applicants have now amended independent claim 30, and claims 33 and 34 depend ultimately from claim 30.

Applicants have carefully reviewed both Fenton, Jr. and Taylor. Applicants believe that Taylor discloses a rotational atherectomy device having a cutter tip 22 which is secured to a flexible drive by any of a variety of ways. Applicants further believe that Taylor does not disclose a method for attaching tissue to bone, and that neither Fenton, Jr. nor Taylor discloses a method for attaching tissue to bone, including the step of attaching a cap to a stake between a proximal surface of the tissue and the sharpened end of the proximal portion thereof so

as to overlie the cap on the tissue. Accordingly, claims 33 and 34, which depend ultimately from independent claim 30, are believed to be in condition for allowance, and allowance thereof is respectfully requested.

In response to Item 4 above, Applicants wish to thank the Examiner for his indication that claim 35 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have now added new claim 36 which includes all of the limitations of claims 30 and 35. Accordingly, Applicants believe that new claim 36 is in condition for allowance, and allowance thereof is respectfully requested.

Applicants have now added new claims 37 and 38, which include the step of attaching a cap to the stake so as to overlie the tissue, wherein the cap does not extend through the proximal surface of the tissue so as to position the stake and the tissue adjacent to one another. Applicants believe that claims 37 and 38 are in condition for allowance, and allowance thereof is respectfully requested.

In the event that any additional fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Respectfully submitted,

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